



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: SWG-2016-00832

Date Issued: 30 March 2017

Comments

Due: 01 May 2017

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT: LBC Houston, LLC.
11666 Port Road
Seabrook, Texas 77586-1603
POC: Patrick McKinney
Telephone: (281) 291-3448

AGENT: Lloyd Engineering, Inc.
6565 West Loop South, Suite 708
Bellaire, Texas 77401-3500
POC: Owen Parker
Telephone: (832) 426-4656

PROJECT LOCATION: The project site is located in the Bayport Ship Channel at 11666 Port Road, Seabrook, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: League City, Texas.

PROJECT LATITUDE & LONGITUDE (NAD 83):
Latitude: 29.614189° North; Longitude: 095.023169° West

PROPOSED MITIGATION SITE LOCATION: The proposed mitigation site is located on a 52 acre tract approximately 0.3 mile northeast of the intersection of East Main Street and Wilson Road, in portions of La Porte and the City of Morgans Point, in Harris County, Texas.

The mitigation site can be located on the U.S.G.S. quadrangle maps titled: La Porte and Morgans Point, Texas.

PROPOSED MITIGATION SITE LATITUDE AND LONGITUDE (NAD83):

Latitude: 29.673430° North; Longitude: 094.999944° West

PROJECT DESCRIPTION: The applicant proposes to construct 1,077 linear feet of bulkhead, 215 linear feet of sheet pile wall, a new ship dock, a new “L” – shaped fire boat dock, breasting dolphins, construction of a multi-purpose building with parking lot and access roads and dredging of 7.738 acres to a depth of 45 feet below Mean Lower Low Water with 2 feet over dredge. The applicant proposes to dredge approximately 450,000 cubic yards of new cut dredged material. This project will dredge 0.164 acre of palustrine wetlands and 0.138 acre of estuarine emergent wetlands. This project also proposes to place dredged or fill material into 5.405 acres of palustrine wetlands for the construction of the multi-purpose building. The remainder of the dredged material is proposed to be placed into existing dredged material placement areas. Overall this project proposes impacts to 7.738 acres of open water and 5.705 acres of wetlands.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the temporary and permanent environmental impacts to the maximum extent by practicable.

MITIGATION: The applicant proposed to mitigate for the proposed impacts through a permittee responsible mitigation plan. The applicant proposes to construct 10 acres of palustrine emergent wetlands and 5 acres of palustrine forested wetlands within an approximate 52-acre mitigation site to compensate for the proposed wetland impacts. The proposed PRM plan will provide partial offsite, out-of-kind compensation for wetlands proposed to be impacted as a result of the proposed Ship Dock 5 project. Establishment of palustrine forested and palustrine emergent wetlands, as proposed within the PRM plan, should result in the establishment of wetland functions and values within areas not currently functioning as wetlands. The overall goal of this mitigation project is to compensate for the lost physical, chemical, and biological functions of the wetlands within the Clear Creek-Frontal Galveston Bay watershed.

CURRENT SITE CONDITIONS: The project site is an undeveloped tract approximately 22.74 acres in size consisting of 7.738 acres of open-water adjacent to the Bayport Turning Basin. Terrestrial portions of the project site contains vegetated areas located adjacent to the applicant’s existing infrastructure. This site is located within an area in which established industrial operations exist. This site therefore allows access to existing petrochemical infrastructure including pipelines and storage facilities. A delineation has been conducted within the project limits of the project site. Approximately 2.165 acres of palustrine forested wetlands 3.013 acres of palustrine scrub-shrub wetlands, 0.389 acre of palustrine emergent wetlands, and 0.138 acre of estuarine intertidal emergent (E2EM) wetlands were identified. Additionally, a functional assessment was performed using the USACE-Southwestern Galveston District (SWG) interim hydrogeomorphic (iHGM) approach to determine the functional capacity of the wetlands proposed to be impacted as a result of the proposed project.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The applicant's plans are enclosed in 8 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Consistency with the State of Texas Coastal Management Plan is required. The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

This project would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

The return water from the upland contained dredge material placement area(s) requires authorization under Nationwide Permit (NWP) 16. However, we have determined that the conditioned Section 401 certification, placed upon NWP 16 by Texas Commission on Environmental Quality (TCEQ), is not reasonably implementable or enforceable, according to 33 CFR 325.4(c). Prior to the performance of hydraulic dredging, the applicant must obtain a Section 401-water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401-certification must also be furnished to the Corps of Engineers prior to performing hydraulic dredging.

AIR CONFORMITY: The proposed project will be reviewed for conformity with applicable regulations implementing Section 176(c) of the Clean Air Act. It will be determined that the activities proposed under this permit may, or may not exceed *de minimis* levels of direct emissions of a criteria pollutant, or its precursors, and if they are, or are not exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility, and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this individual permit

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The permit area was created in modern times and has had no human habitation; therefore, little likelihood exists for the proposed project to impinge upon a historic property. The adjacent wetlands where some of the dredged material will be placed has been so extensively impacted by construction of the Bayport Ship Channel that there is no potential for historic properties to exist. The remainder of the dredged material will be placed in existing placement area. The proposed project has no potential to effect historic properties.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **01 May 2017**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2016-00832**, and should be submitted to:

North Evaluation Unit
Regulatory Division, CESWG-RD-E
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-6301 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS